IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH.

CWP No.9889 of 2007
Date of decision: 6.7.2007

Abhinash Bhushan and others.

-----Petitioners

Vs.

State of Punjab and another.

-----Respondents

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE AJAI LAMBA

Present: Mr. K.L. Arora, Advocate
for the petitioners.

ORDER:

This petition seeks a direction that case of the petitioners be considered for the posts of Fire Station Officers and promote them from the date their juniors were promoted in accordance with the Government's order dated 27.2.2007 (Annexure P-5).

Case of the petitioners is that the petitioners were working as Sub Fire Officers in various Municipal Committees in the State of Punjab. In a judgment of this Court in C.W.P. No.4258 of 2000 (***Malwinder Singh v. State of Punjab and others)***, decided on 8.11.2001 (Annexure P-3), it was held that under the Punjab Municipal Service (Recruitment and Condition of Services) Rules, 1975, qualification of Diploma in Fire Engineering was required only for direct

recruitment to the post of Fire Station Supervisor/Superintendent/ Station Officers.

The Government gave promotions to some persons who were junior to the petitioners, which was challenged in this Court in C.W.P. No.11226 of 2006 (***Swaran Singh and others v. State of Punjab and others)***, as a result of which, the State Government passed an order dated 27.2.2007, reverting the said junior persons. Vide notification dated 2.4.2007 (Annexure P-9), the rules have been amended and even for promotion, qualification of passing Fire Station Officers' course from Nagpur or Diploma in Fire Engineering from Nagpur has been prescribed with a view to promote junior persons who were recruited. The petitioners gave a legal notice dated 23.4.2007 (Annexure P-10), requiring the State Government to withdraw the notification amending the rules and promoting the petitioners, but having received no response, they filed the present petition.

We have heard learned counsel for the petitioners at length.

We find that there is no merit in this petition.

The petitioners have themselves stated that the persons who were junior to the petitioners and were granted promotions have since been reverted. If that is so, no cause of action survived in that regard.

As regards amendment of rules, laying down qualification for promotion (Annexure P-9), it is stated that the objective of the rule being to give promotions to junior persons having qualificaition, the rule is mala fide. It is pointed out that the existing rule was interpreted as

being not applicable to promotee candidates. It is also stated that the junior persons were sent for training on 3.1.2003. Sending of junior persons for training more than 4 years ago, was never a subject matter of challenge nor the persons who were sent for training have been impleaded as parties to the petition. Interpretation of unamended rules is also of no relevance after rules have been amended. Laying down of a qualification for a promotion, cannot be held to be mala fide or without jurisdiction in any manner.

For the above reasons, the writ petition is dismissed.

(ADARSH KUMAR GOEL)
JUDGE

July 06, 2007
ashwani

(AJAI LAMBA)
JUDGE